

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**James M. Yoder,**  
Petitioner-Appellant,

v.

**Dallas County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-25-0455**  
**Parcel No. 14-13-100-005**

On September 13, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, James M. Yoder, was self-represented. County Attorney Wayne Reisetter is counsel for the Board of Review. County Assessor Steve Helm represented it at hearing. Both parties submitted evidence and testimony in support of their positions. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

James M. Yoder, owner of rural, agriculturally classified property in Dallas County, Iowa, appeals from the Dallas County Board of Review's decision regarding his 2011 property assessment. The January 1, 2011, assessment was \$46,740.

Yoder protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2); that there is an error in the assessment under section 441.37(1)(a)(4); and that the property had suffered a downward change in value since the last assessment under sections 441.37 (1)(b) and 441.35(2). The Board of Review denied the protest.

Yoder then appealed to this Board, reasserting the same grounds. The subject site is 37.750 acres of agricultural land with no improvements. The gist of Yoder's appeal is that the subject property's assessment is incorrect because more current soil survey data exists. Yoder believes the current assessment should be \$15,500.

Yoder testified the current assessment was based on the 1980 soil survey. Since that time, however, the Raccoon River has redirected itself and the 1980 survey is no longer accurate. He testified that most of the Nodaway silt Loam and Hanlon fine sandy soils have washed away with the change in the river channel, and even when the river is not flooding, much of the land is under water. He also submitted new soil survey information from the Natural Resources Conservation Service (NRCS), a division of the USDA. Patrick Chase, a Resource Soil Scientist with the NRCS, completed the new soil survey in June 2011. Chase's survey, which was done from aerial photographs, confirms Yoder's claim that the river has naturally redirected itself, and as a result, Chase tentatively redrew the soil lines to match current imagery and give a better representation of the soil resources and water on Yoder's land. We note, it appears the survey also included another parcel Yoder owns because it considered a total of 59.238 acres of land, but the parcel on appeal is only 37.750 acres.

Additionally, Yoder indicated that about only two acres could be farmed because the rest of the subject site is now on the other side of the river. Yoder also presented photographs of the subject site. His area photography confirms that a portion of the property is located on the opposite side of the river, which would appear unreachable by farm machinery from the remainder of his property.

Steve Helm, Dallas County Assessor, testified on behalf of the Board of Review. Helm believes Yoder's case is an issue of equity. He testified that the value of all agricultural realty in Dallas County is based on the 1980 soil survey, and that if Yoder's property assessment would be changed based on the new soil survey information Yoder provided it would result in inequity for other

properties. Helm stated the 1980 survey is the most current one available to him; he indicated he hopes Iowa State University will have a new soil survey for Dallas County soon.

Reviewing the entire record, we find Yoder did not prove the subject property is over assessed or that there is an error in the assessment that affects the assessed value of the property. While Yoder provided a soil survey of his property, it has two potential problems. First, the survey appears to be a tentative redrawing of the soil composition. Second, the survey looks at an area larger than the parcel in question; therefore, we cannot determine its impact on just the area at issue before us. Although Yoder did provide evidence to show some change in the subject property, he failed to show how that change affects the assessment. Agricultural realty is assessed based on productivity and net earning capacity, not fair market value of the realty, and there is no evidence in the record to indicate how the apparent change in soil composition on the property correlates the \$15,500 value Yoder contends is correct.

Despite Yoder's failure to prove his claim, we note our concern with the Board of Review's apparent position on protests of agricultural realty. If a taxpayer has evidence to show an incorrect assessment, the Board of Review should be able to change the assessment. For example, if a residential property can show a change in the value of the property since a previous assessment, why can agricultural realty not do the same? This Board recommends the Board of Review reconsider its practices regarding agricultural protests for the 2013 reassessment year. Furthermore, we note a soil survey for an agricultural property is one of the few ways to show such property should have its assessment changed. In future assessment cycles either the Board of Review or Assessor's Office should consider, in absence of a new county-wide soil survey, which this Board recognizes would be quite costly, the results of Yoder's preliminary survey or other similar surveys provided by property owners. Consideration of these surveys would not result in inequity as long as CSRs are uniformly applied across all properties.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

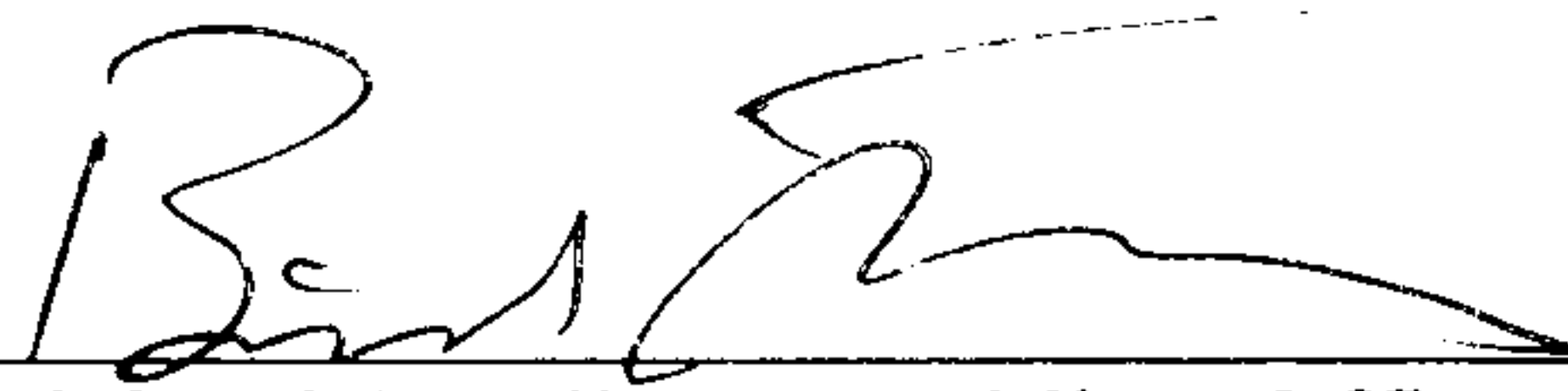
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). However, if property is classified agricultural property it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

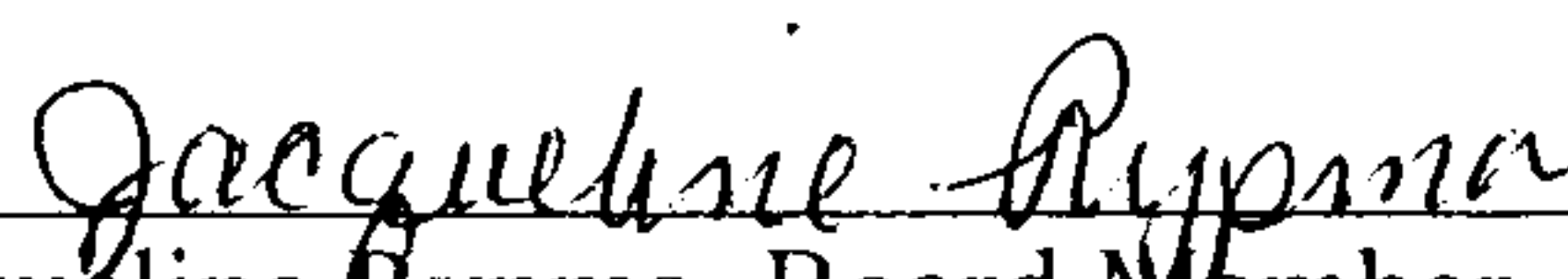
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In this case, although Yoder has shown some tentative changes to the composition

of soils on his property, there is insufficient evidence to determine how this change equates to assessed value.

THE APPEAL BOARD ORDERS that assessment of the James M. Yoder's property located in rural Dallas County, Iowa, of \$46,740 as of January 1, 2011, set by the Dallas County Board of Review, is affirmed.

Dated this 24 day of October 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-24</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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